



2023 Annual Conference

Syracuse, New York

Centralized Arraignment Part Implementation

Date: Tuesday, October 3, 2023

Instructors:

Arielle Bryant, Esq.

Hon. Dawn Fiorello

MCLE: 1.0 Professional Practice

This program has been approved for credit in
New York State for all attorneys
including those who are Newly Admitted
(less than 24 months) and administered by
the Onondaga County Bar Association

Presenters



ARIELLE BRYANT, ESQ. has worked for the Unified Court System since 2007 as Special Counsel for the Town and Village Courts, 9th Judicial District. Ms. Bryant received her B.A. in Sociology from SUNY Albany, and her J.D. from Pace University School of Law and is admitted to practice law in New York.

Dawn Fiorillo earned a Bachelor of Science in Business Administration at the University at Albany and a Master of Science in Education from The College of Saint Rose. She currently serves as the Town Judge in Cobleskill and as an Adjunct Instructor at SUNY Cobleskill. Judge Fiorillo identifies as a lifelong learner and educator and has dedicated much of her life to reading, researching, understanding and whenever possible, sharing that knowledge with others in meaningful ways. Judge Fiorillo teaches a Freshman Seminar course at SUNY Cobleskill which affords her with the opportunity to welcome students to her community and share information that quite literally, improves their propensity for success. Judge Fiorillo has served as the Town Justice in Cobleskill, NY for the past ten years. Whenever possible, Judge Fiorillo participates in training and conferences, networking with other judges and clerks from all over the state. She brings information back to share with her colleagues in Schoharie County where she serves as the President of the County Association. Judge Fiorillo's colleagues and other stakeholders in the county often seek her guidance on administrative related matters and as an educator, she considers those conversations as an opportunity to improve our collective understanding.

WHO?

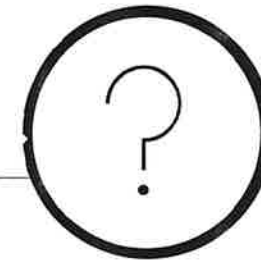
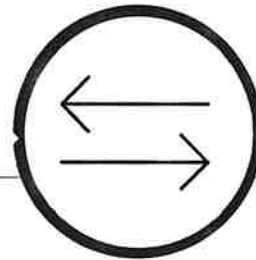
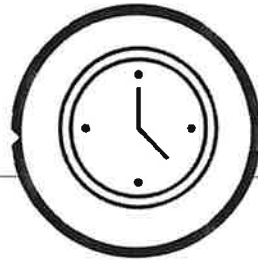
WHERE?

WHEN?

WHAT?

WHY?

HELP!



Centralized Arraignment Part Court

also known as CAP Court



**WHAT IS A
CENTRALIZED
ARRAIGNMENT
PART?**

Provides Countywide Jurisdiction for Arraignments to all Judges, City, Town and Village Courts.

Sets forth a regular schedule by which Judges, Defense Attorneys, District Attorneys, and other Stakeholders are present and arraignments will be heard in person.

Provides equal treatment to all those who are arrested.

Allows for pre-arraignment detention of defendants when the Centralized Arraignment Part(s) are not in session.

WHO?

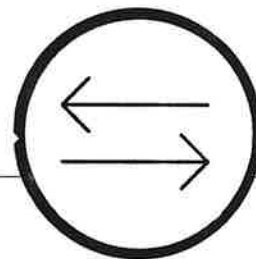
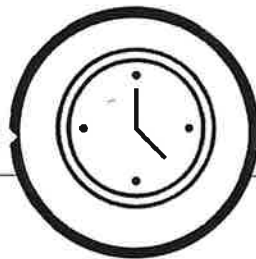
WHERE?

WHEN?

WHAT?

WHY?

HELP!



Judiciary Law Section 212 (1)(W)

JUDICARY LAW SECTION 212(1)(w)

(1) The chief administrator of the courts, on behalf of the chief judge, shall supervise the administration and operation of the unified court system. In the exercise of such responsibility, the chief administrator shall have such powers and duties as may be delegated to him by the chief judge and, in addition, the following functions, powers and duties which shall be exercised as the chief judge may provide and in accordance with such standards and administrative policies as may be promulgated pursuant to section twenty-eight of article six of the constitution:

JUDICIARY LAW SECTION 212(1)(w)

(w) Adopt, after consultation with the office of indigent legal services, the appropriate local magistrates association, institutional providers of criminal defense services and other members of the criminal defense bar, local government officials, including the district attorney, and with the approval of the administrative board of the courts, a plan for the establishment, in accordance with paragraph (c) of this subdivision, of off-hours arraignment parts in select local criminal courts of a county to be held in such courts on a rotating basis for the conduct of arraignments and other preliminary proceedings incidental thereto, and for arrest warrant returns in criminal cases, where the use of such parts will facilitate the availability of public defenders or assigned counsel for defendants in need of legal representation at such proceedings. To the extent practicable, and notwithstanding that any such plan shall designate off-hours arraignment parts in fewer than all of the local criminal courts of a county, each plan authorized by this paragraph shall provide for the periodic assignment of all of the judges and justices of all of the local criminal courts in the affected county to the off-hours arraignment parts designated therein. The chief administrator shall give appropriate public notice of each off-hours arraignment part established here under and each judicial assignment made thereto.

Criminal Procedure Law Section 140.20 (1)(e)

1. Upon arresting a person without a warrant, a police officer, after performing without unnecessary delay all recording, fingerprinting and other preliminary police duties required in the particular case, must except as otherwise provided in this section, without unnecessary delay bring the arrested person or cause him to be **brought before a local criminal court and file therewith an appropriate accusatory instrument charging him with the offense or offenses in question.** The arrested person must be brought to the particular local criminal court, or to one of them if there be more than one, designated in section 100.55 as an appropriate court for commencement of the particular action; except that:

Criminal Procedure Law Section 140.20 (1)(e)

(a) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a town, but not in a village thereof having a village court, and the town court of such town is not available at the time, the arrested person may be brought before the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in **part** by such adjoining town, or city of the same county; and

Criminal Procedure Law Section 140.20 (1)(e)

(b) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a village having a village court and such court is not available at the time, the arrested person may be brought before the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in **part** by such adjoining town, or city of the same county; and

Criminal Procedure Law Section 140.20 (1)(e)

(c) If the arrest is for an offense committed in a city, and the city court thereof is not available at the time, the arrested person may be brought before the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city; and

Criminal Procedure Law Section 140.20 (1)(e)

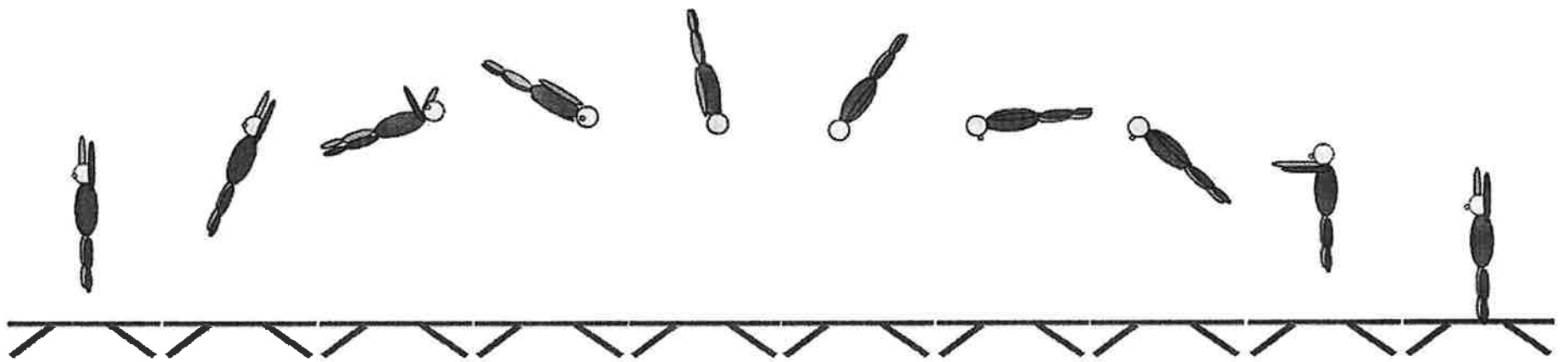
(d) If the arrest is for a traffic infraction or for a misdemeanor relating to traffic, the police officer may, instead of bringing the arrested person before the local criminal court of the political subdivision or locality in which the offense was allegedly committed, bring him or her before the local criminal court of the same county nearest available by highway travel to the point of arrest; and

Criminal Procedure Law Section 140.20 (1)(e)

(e) Notwithstanding any other provision of this section, where a local criminal court in the county in which the defendant is arrested is operating an off-hours **arraignment part** designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the **judiciary law** at the time of defendant's arrest, the arrested person may be brought before such local criminal court.

JUDICIARY LAW SECTION 212(1)(w)

- w) Adopt, after consultation with the office of indigent legal services, the appropriate local magistrate's associations, institutional providers of criminal defense services and other members of the criminal defense bar, local government officials, including the district attorney, and with the approval of the administrative board of the courts, a plan for the establishment



ONE STEP AT A TIME.....

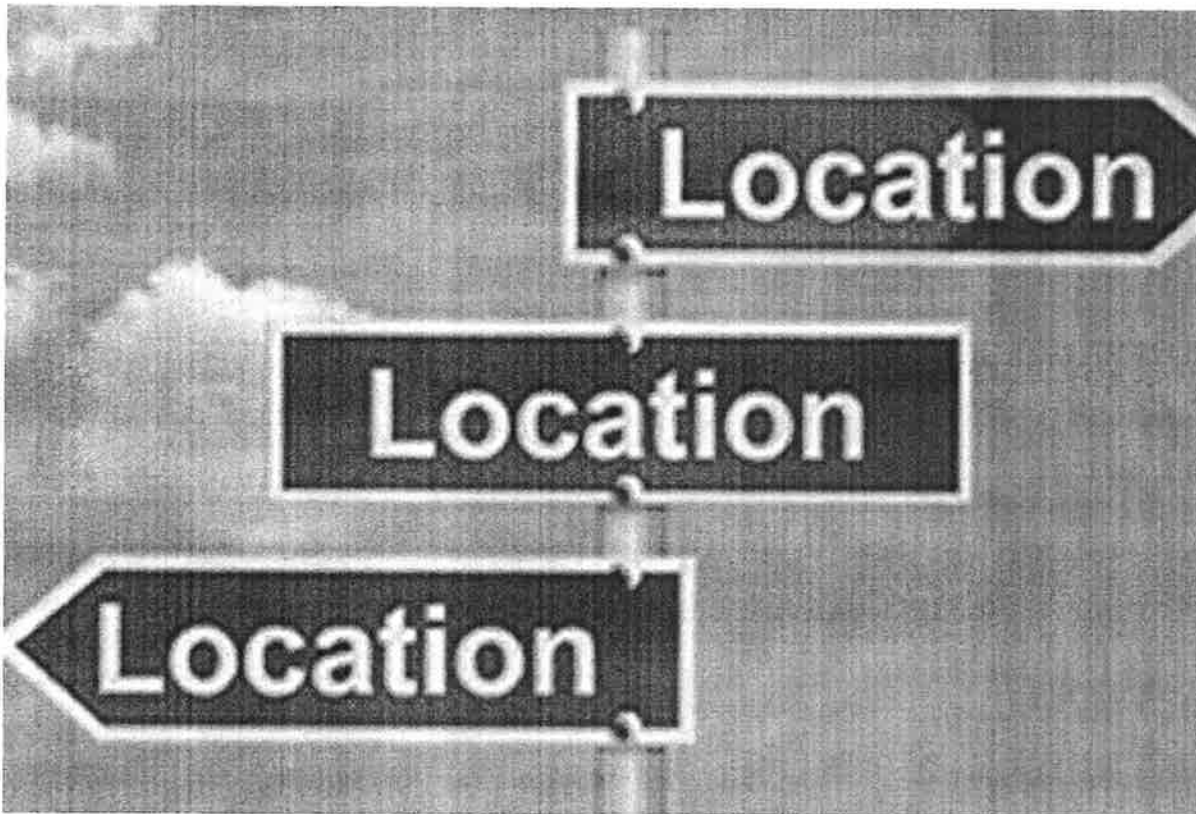
1. Special Counsel for your District- Administrative and Supervising Judges.
 - Office of Justice Court Support communicates with Special Counsel on CAP plans.
2. Magistrate's Association.
3. County.

IDENTIFY

- What Courts will be included?
- Needs of the County?
- City Courts?
- Town and Village? How many?
- Total number of arraignments?

STEPS

- Location, Location, Location
- Jail
- Stakeholder Discussion
- Stakeholder Meeting
- Draft Plan
- Seek Approval



STAKEHOLDER MEETING

Stakeholders need to be identified- **JUDICARY LAW SECTION 212(1)(w)**

1. Office of Indigent Legal Services.
2. Local Magistrates' Association(s).
3. Institutional providers of criminal defense services i.e. Public Defender, Legal Aid.
4. Other members of the criminal defense bar, i.e. 18-b and Bar Association
5. Local government officials- County Executive, County Attorney, Sheriff or Public Safety, Jail, Town Supervisors, Mayors, Police Chief's Association, and Police Chiefs that serve the community
6. District Attorney

STAKEHOLDER MEETING

At this Stakeholder Meeting...

1. Discuss a Plan?
2. Present a Plan?
3. Work out details of the Plan?
4. Do you have a location? If so, does your location have:
 - Security? Magnetometers? Persons to operate magnetometers?
 - Location defense counsel can speak to defendant privately?
 - Is your location open to the public or can it be made open if requested?

Every County is different, you may have multiple meetings.

WHERE?



Many CAP Courts
are located in the Public Safety Facility,
or the County Jail Facility.

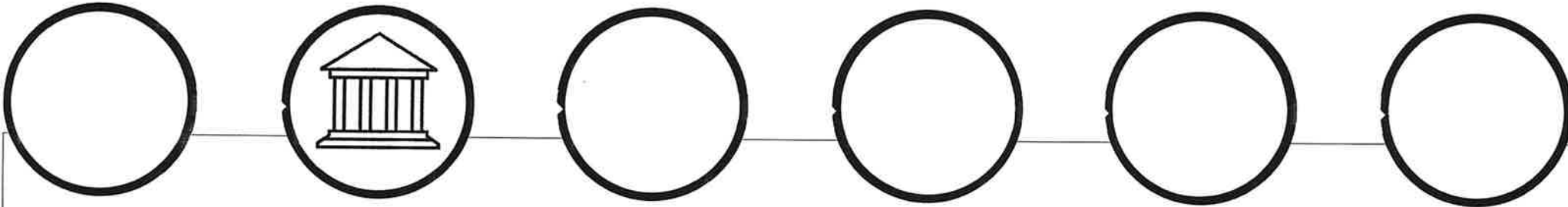
Common space / Multi Purpose Room

CORRECTION LAW 500-C

Pre-Arraignment Detention

26. Notwithstanding any other provision of **law**, where the chief administrator of the courts establishes an off-hours arraignment part in a county in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law, all the provisions of this section shall equally apply in any case where the sheriff is holding a person who is eighteen years of age or older and under arrest for arraignment prior to commitment, as if such person had been judicially committed to the custody of the sheriff and such person may be held in such county **correctional** facility.

WHERE?



Defendants are housed / held separately from general population in the Public Safety Facility.

Pre-Arraignment Detainees are not mingled with incarcerated nor post arraignment defendants.

Memorandum of Understanding

An agreement between the correctional facility or a police agency with another police agency to hold persons pending arraignment.

SAMPLE: MOU Between Sheriff and Local Police Agencies.

- POLICY:** Establish an agreement between the Sheriff's Office (hereinafter "CSO") and all local and state police agencies, hereinafter referred to as "Police", operating within County allowing the Police to utilize the County Correctional Facility (hereafter, "CCF") when approved.
- **INTENT:** The intent of this agreement is to allow use of CCF by the Police for holding arrestees who require an arraignment in County.
- AGREEMENT:** The CSO agrees to accept arrestees in custody of the Police to be temporarily housed within the CCF and to safely, and securely, maintain custody of these individuals under the terms and conditions of this Agreement.
- **PROCEDURE:** The following terms and conditions shall remain in effect for the duration of this agreement:
 1. CSO reserves the right to refuse admittance to any arrestee for any reason.
 2. Arrestees in custody of the Police shall be accepted into the CCF during the following time periods: a) 11:15 p.m. through 6:00 a.m.-7 days a week; and b) Holidays and Weekends: 8:30 a.m. through 2:30 p.m. and 3:30 p.m. through 5:30 p.m.
 3. All arrestees shall be screened for mental health, medical needs and/or impairment that would require supervision. This screening will be done by the Arresting Agency using the State of New York Commission of Correction Office of Mental Health Suicide Prevention Screening Guidelines and the CSO Arrestee Checklist. This must be completed before a determination is made of whether custody will be transferred to the Sheriff. A copy of these forms will be provided to each agency that signs this agreement and will also be available to the CCF. A secondary screening form will be completed by the CSO Booking and Medical staff prior to assuming custody.
 4. No arrestee will enter the CCF unless the District Attorney's Office is consulted with and validated with a bail recommendation for pre-arraignment detention.
 5. No arrestee will be permitted to enter the CCF while under the influence of any intoxicating substance.

MOU PAGE 2

6. The CCF vehicular sally port (VSP) will be utilized to provide a secure transfer from the Police to the Booking area. The Police are required to search arrestee, on camera, inside the VSP, for weapons and contraband, before the Police will be allowed to enter the booking entrance. All arrestees must be in handcuffs prior to entry into the VSP and remain in handcuffs until the Booking Officer approves removal.

7. Any personal property of the arrestee should be logged in and secured in a property envelope by the Police agency. The property envelope will be brought to the CCF along with the arrestee in the event the arrestee makes bail or is released.

8. Arrestees with immediate medical needs will not be accepted for admittance to the OCCF. In the event the arrestee presents in need of immediate medical attention, OCCF Medica provider will facilitate treatment until local EMS personnel arrive. The Police will retain custody of the arrestee.

If a Police Agency sets pre-arraignment bail, the arrestee will not be eligible for pre-arraignment detention.

9. All bail eligible offenses, all Class A, B, C, or D felonies, mandatory remands, and warrants are eligible for pre-arraignment detention. However, the following may be acceptable for admission subject to the terms and conditions of this Agreement.
- a. Arrests for domestic violence related incidents, or for incidents involving offenses where an order of protection is needed.
 - b. E Felonies eligible for admission: PL 130.25 Rape in the 3rd degree
 - PL 130.40 Criminal Sexual Act in the 3rd degree PL 130.53 Persistent Sexual Abuse
 - PL 130.65a Aggravated Sexual Abuse in the 4th degree (VF) PL 205.10 Escape in the 2nd degree
 - PL 205.05 Escape in the 3rd degree
 - PL 205.17 Absconding from temporary release in the 1st degree

MOU PAGE 3

- PL 205.19 Absconding from a community treatment facility PL 215.56 Bail Jumping 2nd degree
- PL 240.55 Falsely Reporting an Incident in the 2nd degree (VF)
- PL 240.61 Placing a False Bomb or Hazardous Substance in the 2nd degree (VF)
- PL 265.02 Attempt to Commit Criminal Possession of a Weapon in the 3rd degree subdivisions 5, 6, 7 or 8 (VF)

Driving While Intoxicated or Impaired refusals.
Aggravated Unlicensed Operation 1st degree.
Driving While Intoxicated (any felony).

11. An "Arrestee Checklist" form shall be completed by a member of the Police. The original shall be presented at the CCF with the arrestee. A copy of the completed accusatory instrument(s), a criminal history, originating from the arresting agency's ORI and all necessary paperwork to complete the arraignment will be submitted to the OCCF Booking staff. Police are responsible for the completion of the arrest processing, including fingerprinting and photographs of the arrestee at their own facility.

12. In the event of an incident (i.e., medical emergency/suicidal tendencies) that occurs after the arrestee has been screened and processed by booking staff, the CCF will hold the subject and seek medical and/or mental health attention.

13. Prior to transporting an arrestee, the Police will contact the County Jail at (123) 456-7890 and request to speak with the Administrative Sergeant to confirm the availability of a holding cell.

14. The Police may choose to hold an arrestee in their custody until the Centralized Arraignment Part is available if the arrest does not meet the requirements of this Agreement. If the Police elect to hold the arrestee, they must notify the Administrative Sergeant at (123) 456-7890 of their intention to arraign the arrestee at the next scheduled arraignment time. The Administrative Sergeant will make the proper notifications to all parties needed to conduct the arraignment.

MOU PAGE 4

15. Prior to the end of his/her tour it is the responsibility of the arresting Police member to inform Police coming on duty that an arrestee was placed into the CCF.
16. The CSO will conduct transfers from the CCF to the central arraignment part located at the CCF. The CSO will not be responsible for any transportation of any arrestee to any other central arraignment part, the originating arrest Police are responsible for such transportation.
17. If an arrestee is released at arraignment, CSO will provide said arrestee with a phone call to obtain a ride. However, if the arrestee is unsuccessful in obtaining a ride, the arresting agency will be responsible for providing transportation for the arrestee or will be billed for a travel voucher.

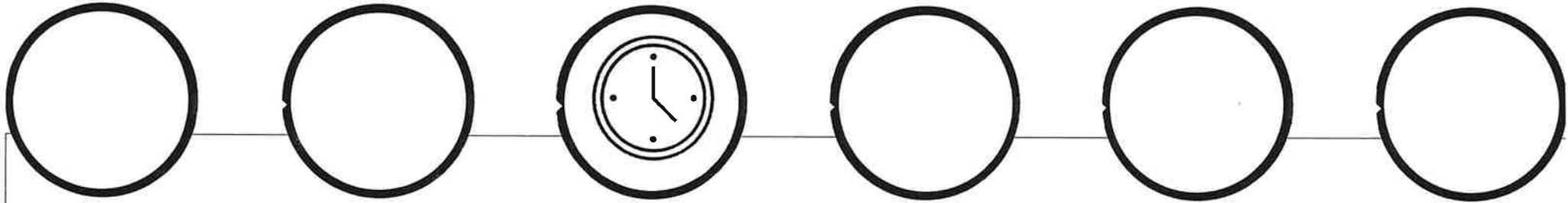
WHO?



1. Judge
2. Defense Counsel
3. Defendant
4. Corrections / Transport Officer

- Prosecutor?
- Stenographer?
- Interpreter?
- Clerk?
- Probation Officer?
- Courtroom Security?
- Open to the Public?

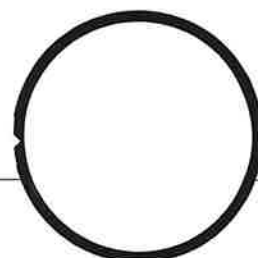
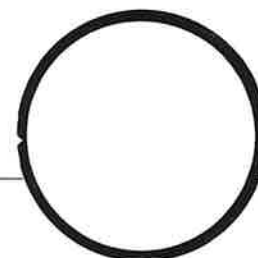
WHEN?



CAP court is generally held for
2.5 hours twice a day, ON CALL OR 5 hours OPEN COURT

Let's Discuss.

WHO?



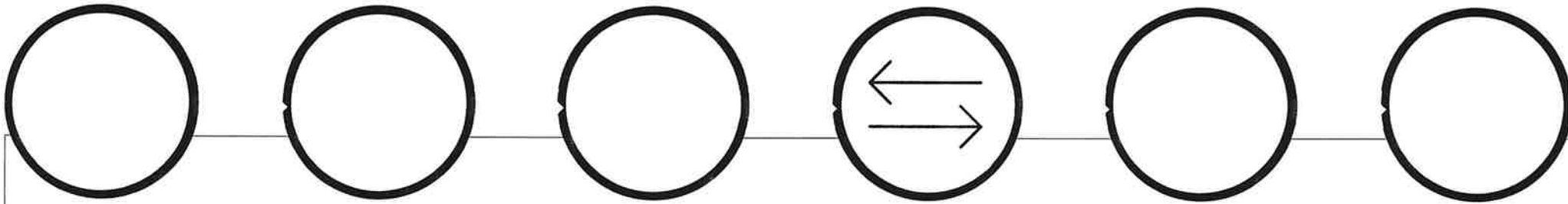
JUDICIAL PARTICIPATION REQUIREMENTS
VARIES BY COUNTY
WHO MAKES THE SCHEDULE? WHO APPROVES IT?
Let's Discuss.

NEW YORK RULES OF COURT SECTION 126.3

Off-Hours Arraignment Parts

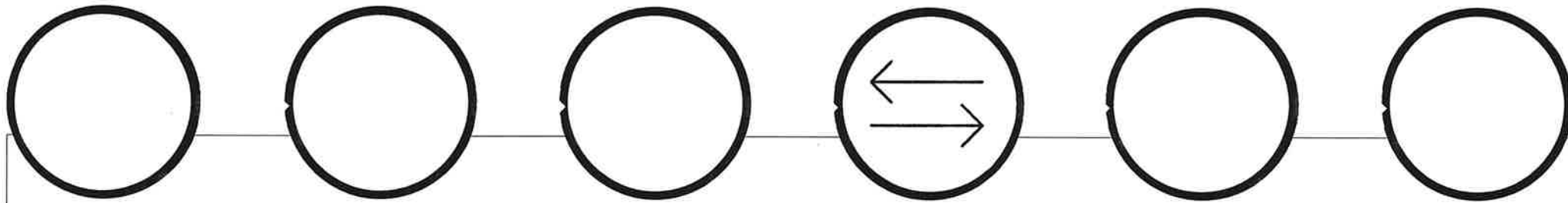
Each judge or justice of a city, town or village court temporarily assigned to an off-hours **arraignment part** established by the Chief Administrator pursuant to Judiciary Law § 212(1)(w) shall receive \$250 per day, or \$125 per half-day, for each day or half-day period of service during which such judge or justice performs one or more judicial functions in the off-hours **part**. Where an assignment requires a participating judge or justice to remain available on-call for service in an off-hours **arraignment part**, there shall be no compensation for any day or half-day period of service that does not include at least one in-court judicial function. No state-paid judge may receive compensation under this **Part** for service in an off-hours **arraignment part** in lieu of regularly scheduled service in a state paid court without the approval of the Chief Administrator.

WHAT?



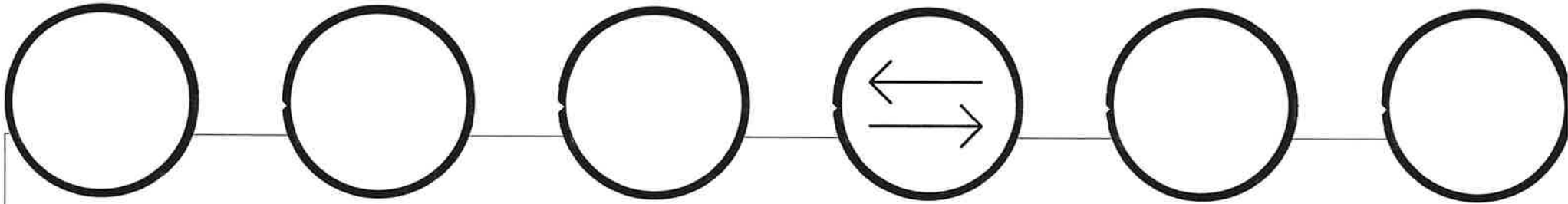
- Arraignments
 - Any case where a TOP is being sought
- Failure to Appear / Arrest / Bench Warrants (w/ addendum)
 - Violations of Probation
 - Refusal DWI
 - Fugitive from Justice

WHAT?



- Family Court Matters? YES
- Accessible Magistrate Matters? MAYBE
 - Search Warrants? MAYBE
- Cases when Town and Village Courts are in session? Maybe

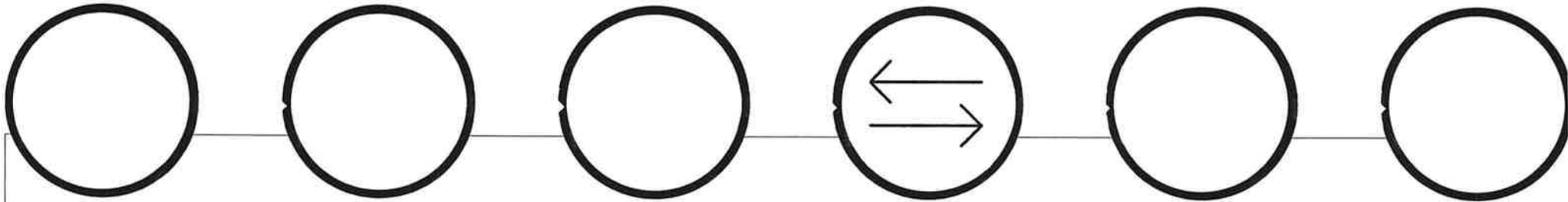
WHAT?



Courtroom Program has a complete and somewhat unique set up of the software to facilitate this process.

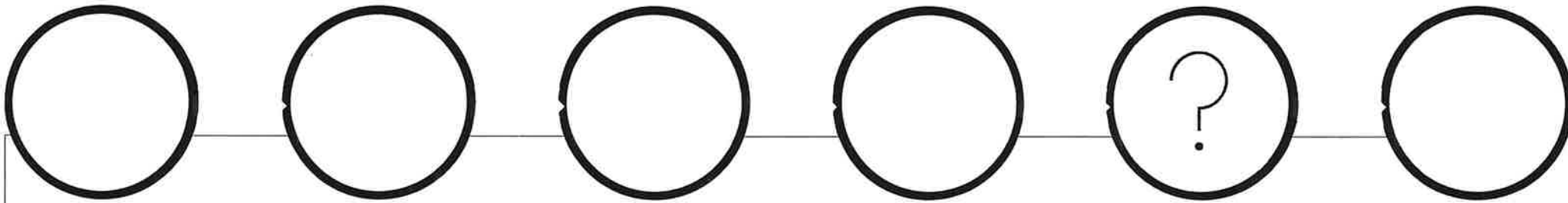
Docket numbers are created at CAP (5th number is a 9)
This is not carried over to original court of jurisdiction.

WHAT?



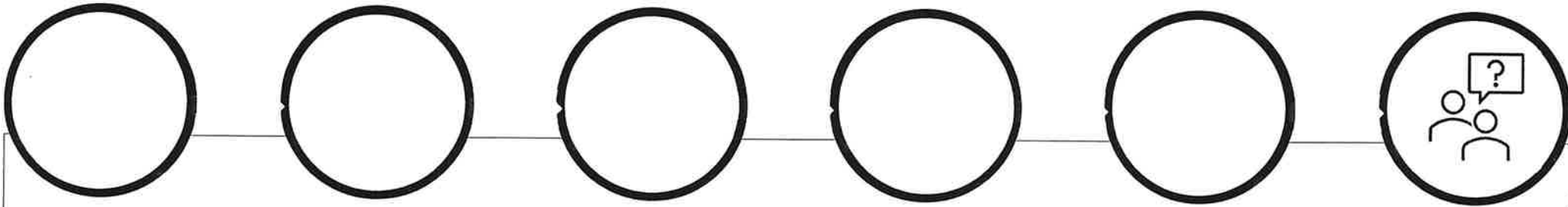
CAP Arraignments Include:
Securing Order for every single case
TV1 or TV2
CDR's when applicable
Order of Protection entered into WEBDVS
Email to Original Court of Jurisdiction
Original case documents are often distributed via relays.

WHY?



All arraignments are to be conducted with a defense attorney present. Some counties are struggling to provide counsel at first arraignment (CAFA) 24 / 7.

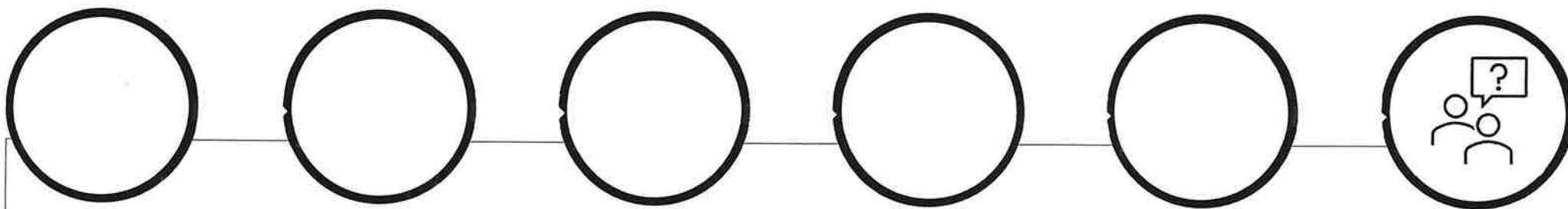
HELP!



Resource Center has collected about 30 different
CAP plans for your review and consideration.

https://www.nycourts.gov/courts/townandvillage/judges_only/cap-table.shtml

HELP!



For support or encouragement, please feel free to
contact me via email: dfiorillo@nycourts.gov
Anbryant@nycourts.gov

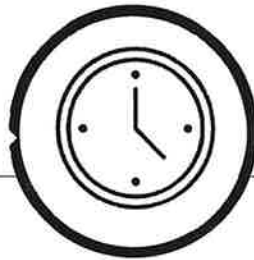
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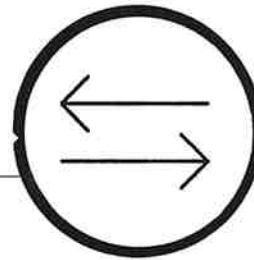
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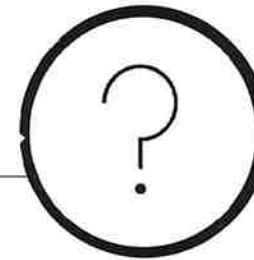
WHEN?



WHAT?



WHY?



HELP!



Centralized Arraignment Part Court

Any questions, comments or concerns?